

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RAUL I. CALDERON,)	
)	
Plaintiff,)	4:06cv3278
)	
vs.)	ORDER
)	on INITIAL REVIEW and MOTIONS
UNKNOWN DEFENDANT(S),)	
)	
Defendant(s).)	

This matter is before the court for initial review of the complaint filed by the plaintiff, Raul I. Calderon, a prisoner in the custody of the Nebraska Department of Correctional Services ("DCS"). The plaintiff protests the treatment he has received in custody, and he alleges civil rights claims pursuant to 42 U.S.C. § 1983. The plaintiff refers to some hospitalizations and some attempts on his life. He has not, however, named a particular defendant at this time.

Also before the court are three motions by the plaintiff: (1) filing no. 2, the plaintiff's Motion for Leave to Proceed In Forma Pauperis ("IFP"); (2) filing no. 4, a letter from the plaintiff which has been docketed as a Motion to Reimburse the Filing Fee; and (3) filing no. 5, a letter from the plaintiff which has been docketed as a Motion to Take Filing Fee from this Case and Pay the Filing Fee in Case No. 4:06cv3266.

Reviewing the court's records, it appears that the Clerk of Court has already honored the plaintiff's request to apply funds received from the plaintiff to the filing fee in Case No. 4:06cv3266. The docket sheet for each of the plaintiff's cases reflects the payment of a \$350 filing fee in each case. I will direct the Clerk of Court to send the plaintiff, without charge, a copy of the docket sheet for Case Nos. 4:06cv3266 and 4:06cv3278. Therefore, filing no. 5 is granted because it appears that the requested relief has already been granted. Filing no. 4, the Motion to Reimburse the Filing Fee, must be denied because the court cannot reimburse filing fees. In addition, one filing fee has now been paid for each of the plaintiff's cases, which is appropriate. This Order shall serve as a receipt.

As for the plaintiff's Motion to Proceed IFP, the Clerk of Court shall request a certified copy of the plaintiff's trust account information from the financial official for the plaintiff's institution. If, upon receipt of the financial information, the plaintiff's prisoner account statement indicates that he qualifies financially to proceed IFP, filing no. 2 will be granted from that point forward. At this time, filing no. 2 is taken under advisement until the court receives the trust account information from the DCS financial official.

If the plaintiff does receive leave to proceed IFP, the U.S. Marshal will undertake service of process on the defendant(s) without charge to the plaintiff. However, the plaintiff will have to name a person or a government unit or agency as a defendant. A case cannot proceed against only an unknown defendant. Therefore, the plaintiff shall have thirty (30) days to amend the complaint to name a defendant.

IT IS THEREFORE ORDERED:

1. That filing no. 2, the plaintiff's Motion for Leave to Proceed In Forma Pauperis ("IFP") is taken under advisement until receipt of the plaintiff's trust account information from DCS; the Clerk of Court shall request a certified copy of the plaintiff's trust account information from the financial official for the plaintiff's institution;
2. That filing no. 4, the plaintiff's Motion to Reimburse the Filing Fee, is denied;
3. That filing no. 5, the plaintiff's Motion to Take Filing Fee from this Case and Pay the Filing Fee in Case No. 4:06cv3266, has been granted, and the filing fees in both Case No. 4:06cv3266 and Case No. 4:06cv3278 have been paid;
4. That the Clerk of Court shall send the plaintiff a copy of each docket sheet, without charge, for Case No. 4:06cv3266 and Case No. 4:06cv3278; and
5. That within thirty (30) days of the date of this Order, the plaintiff shall file an Amended Complaint naming a defendant who can be served with process in the above-entitled case.

DATED this 22nd day of January, 2007.

BY THE COURT:

s/ F. A. GOSSETT
United States Magistrate Judge